

05-1416-CD
Chester Ogden vs Robert K. Gray et al

Chester Ogden vs Robert Gray, Jeanne Gray
2005-1416-CD

Date: 8/31/2006

Time: 11:26 AM

Page 1 of 2

Clearfield County Court of Common Pleas

User: DPETERS

ROA Report

Case: 2005-01416-CD

Current Judge: Paul E. Cherry

Chester A. Ogden vs. Robert K. Gray, Jeanne P. Gray

Civil Other

Date		Judge
9/14/2005	New Case Filed.	No Judge
	Filing: Complaint Paid by: Ogden, Chester A. (plaintiff) Receipt number: 1908297 Dated: 09/14/2005 Amount: \$85.00 (Cash) 2CC plff and 1CC Sheriff.	No Judge
9/19/2005	Certificate of Service, filed. Service of the Complaint was made on Robert K. Gray on September 14, 2005, filed by s/ Chester A. Ogden-plff. No CC.	No Judge
10/11/2005	Preliminary Objections filed by s/ Joseph Colavecchi Esq. No CC.	No Judge
10/12/2005	Certificate of Service, filed. That on October 10, 2005 a true and correct copy of Preliminary Objection in the above matter was served on Chester A. Ogden filed by s/ Joseph Colavecchi Esq. No CC.	No Judge
10/13/2005	Order AND NOW, this 13th day of October, 2005, upon consideration of Defendant's Preliminary Ojbections filed by Attorney Joseph Colavecchi in the above matter, it is the Order of the Court that argument has been scheduled for the 28th day of November, 2005, at 11:00 a.m. in Courtroom No. 2. BY THE COURT: /s/ Paul E. Cherry, Judge. 2CC Atty J. Colavecchi, 1CC Plff-512 Hartshorn Rd., Clearfield, PA 16830	Paul E. Cherry
11/23/2005	Answer to Preliminary Objections, filed by Plaintiff 3 Cert. to Plaintiff.	No Judge
11/29/2005	Order, Now, this 28th day of Nov., 2005, following argument on Defendants' Preliminary Objections, it is the Order of this Court as follows: 1. The Plaintiff's Answer to Defendants' Preliminary Objections shall serve as the amended complaint filed by Chester A. Ogden; 2. Defendants shall have no more than twenty days from today's date to file responsive pleadings. By The Court, /s/ Paul E. Cherry, Judge. 2cc Plff, 2cc J. Colavecchi	No Judge
12/13/2005	Defendant's Answer to Amended Complaint and New Matter filed by Plaintiff, Chester A. Ogden, filed by s/ Joseph Colavecchi Esq. 2CC Atty J. Colavecchi.	No Judge
1/9/2006	Plaintiff's Answer to New Matter, filed by s/ Chester A. Ogden. 2CC plff.	No Judge
1/18/2006	Transcript of Argument on Defendants' Preliminary Objections, held on Monday, November 28, 2005, filed.	No Judge
4/25/2006	Letter received from Chester Ogden, filed in per Judge Cherry's instruction. Letter requests action be taken to bring case to a conclusion.	No Judge
5/9/2006	Praeipce for Trial, Letter addressed to David S. Meholick, Court Administrator, filed by s/ Chester A. Ogden, Plaintiff. NO CC	No Judge
5/10/2006	Order AND NOW, this 9th day of May 2006, upon consideration of Request for Hearing on Plaintiff's Complaint filed in the above matter, it is the Order of the Court that hearing has been scheduled for the 6th day of June 2006, at 1:30 p.m. in Courtroom NO. 2, Clearfield County Courthouse, Clearfield PA. One-half (1/2) day has been allotted for this matter. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Plff-512 Hartshorn Rd., Clearfield PA 16830 and 2CC Atty J. Colavecchi.	Paul E. Cherry
5/17/2006	Motion For Summary Judgment, filed by s/Joseph Colavecchi, Esquire. 3CC Atty. Colavecchi	Paul E. Cherry
	Petition to Place Case on Trial List, filed by s/ Joseph Colavecchi, Esquire. 3CC Atty. Colavecchi	Paul E. Cherry
5/23/2006	Certificate of Service, filed. That on May 17, 2006, a true and correct copy of the Motion for Summary Judgment in the above matter was served on Chester A. Ogden, filed by s/ Joseph Calavecchi Esq. NO CC.	Paul E. Cherry

Date: 8/31/2006

Clearfield County Court of Common Pleas

User: DPETERS

Time: 11:26 AM

ROA Report

Page 2 of 2

Case: 2005-01416-CD

Current Judge: Paul E. Cherry

Chester A. Ogden vs. Robert K. Gray, Jeanne P. Gray

Civil Other

Date		Judge
5/24/2006	Order, NOW, this 23rd day of May, 2006, Ordered that hearing on Complaint is continued until the 23rd day of August, 2006 at 9:00 a.m. in Courtroom No. 2. Argument on Defendant's Motion for Summary Judgment and Petition to Place Case on Trial List shall be held on June 6, 2006 at 1:30 p.m. in Courtroom No. 2. By The Court, /s/ Paul E. Cherry, Judge. 1CC Plff - 512 Hartshorn Rd., Clearfield, PA., 2CC Atty. J. Colavecchi	Paul E. Cherry
	Rule, this 22nd day of May, 2006, upon consideration of Petition to Place Case on Trial List, a Rule is issued upon Chester A. Ogden to Show Cause why the Petition should not be granted. Rule Returnable the 6th day of June, 2006 at 1:30 p.m. Courtroom 2. By the Court, /s/ Paul E. Cherry, Judge. 3CC Atty. Colavecchi	Paul E. Cherry
5/26/2006	Petition For Continuance, Filed by s/ Joseph Colavecchi, Esquire. 3CC Cert. to Atty	Paul E. Cherry
	Certificate of Service, filed. that on may 25, 2006, a true and correct copy of the Petition to Place Case on Trial List and Rule in the above matter was served on Chester A. Ogden, filed by s/ Joseph Colavecchi Esq. No CC.	Paul E. Cherry
5/30/2006	Motion For Prompt Disposition, filed by s/ Chester A. Ogden, Plff. 2CC Plff	Paul E. Cherry
5/31/2006	Order, NOW, this 30th day of May, 2006, Ordered that Trial scheduled for Aug. 23, 2006 is continued and rescheduled for the 6th day of September, 2006 at 9:00 a.m. Courtroom 2. By The Court, /s/ Paul E. Cherry, Judge. 3CC Atty. Colvecchi	Paul E. Cherry
6/2/2006	Certificate of Service, filed. That on June 2, 2006, a true and correct copy of the Petition for Continuance and Order in the above matter was served on Chester A. Ogden, filed by s/ Joseph Colavecchi Esq. No CC.	Paul E. Cherry
7/13/2006	Notice, if no objections are made to the text of the transcript within five days after such notice, the transcript will become part of the record upon being filed in the Prothonotary's office. Filed by s/ Thomas D. Snyder, RPR, Official Court Reporter.	Paul E. Cherry
	Transcript of Proceedings, filed. Argument on Defendants' Motion for Summary Judgment and Petition to Place Case on Trial List, before Honorable Paul E. Cherry, Judge on June 6, 2006.	Paul E. Cherry
8/23/2006	Plaintiff's Statement, filed by s/ Chester A. Ogden, Plff. 2CC Plff	Paul E. Cherry
8/25/2006	Letter submitted to David Meholick, Court Administrator, dated August 24, 2006. Filed by s/ Chester Ogden, Plaintiff. Filed per Judge Cherry	Paul E. Cherry

6/6/06

Motion for Summary Judgment

→ agreement
- 1949 - Stat of Lim

- laches - wait

- Istoppel - 1953

→ purchased 1953

→ statute - 6 yrs

Condition has existed for 53

Response

⇒

⇒ lived in area

→ Grays parked on his driveway

- Gray obstructed

⇒

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN,
Plaintiff

vs.

ROBERT K. & JEANNE P. GRAY,
Defendant

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*
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No.

05-1416-CD
FILED

9/8/52 LM
SEP 14 2005

2cc p1415
100 skt

COMPLAINT

William A. Shaw
Prothonotary

NOW COMES the Plaintiff, Chester A. Ogden, upon a course of action

whereof is stated:

1. Chester Ogden is the owner of approximately 34 acres and a right of way to the property consisting of sixteen (16) feet in width, situate between land of Robert k. & Jeanne P. Gray and Pennsylvania National Guard Armory, along the public road known as the Coal Hill Road in Lawrence Township, Clearfield County.
2. Robert K. & Jeanne P. Gray, are the owner of a tract of land containing 35,044 square feet situate East of and immediately adjoining right of way of Chester Ogden. and
3. By Agreement made 18th day of August, 1949, WHEREAS Gray's desire to use a portion of said strip of land insofar as it adjoins the property of (now Ogden) and use (12) feet of the sixteen (16) foot strip

of land heretofore reserved by (now Ogden), the said twelve (12) feet to
be those immediately adjoining the property of Gray's, as a driveway
for vehicular traffic. It is understood and agreed between the parties
that no roadway or driveway is to be constructed within four (4) feet
of the stone wall now erected along the line of land formerly of Isaac
Stage. and

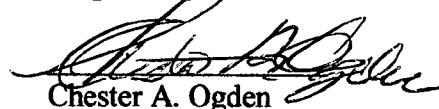
4. Gray's, for themselves, their heirs and assigns, covenant and agree
that they will not use said right of way in such manner as to obstruct said
right of way and prevent parties (now Ogden), their heirs and assigns, from
gaining access to the premises of the parties (now Ogden), their heirs and
assigns.

5. Gray's, for themselves, their heirs and assigns, further
covenant and agree that they will build a road over the said right of
way and maintain it in a good passable condition at all times. (see
attached "Exhibit A")

6. Since approximately 1953, Defendant has failed and continues to fail to construct a road over the right of way, has obstructed landowner's use of right of way by parking vehicles on the property, and continues to use Plaintiff's land without authorization

WHEREFORE, Plaintiff respectfully requests your Honorable Court to issue Order Directing Defendant to Build Road in accordance with Agreement dated 18th day of August, 1949, over the right of way on land of Chester Ogden in Lawrence Township, Clearfield County. and further requesting that Defendant be restrained from disposing of assets without prior leave of Court.

Respectfully submitted,



Chester A. Ogden
512 Hartshorn Road
Clearfield, Pa. 16830
(814) 765-4682

- 3 -

Date; September 14, 2005

[Illegible text and signatures]
Entered of Record *[illegible]* 19 10 49 *[illegible]* W. W. Mulick Recorder

THIS AGREEMENT made and entered into this 18th day of August, 1949, BETWEEN WILLIAM A. COLLINS and BEATRICE B. COLLINS of Clearfield Borough, Clearfield County, Pennsylvania, parties of the first part, and ROBERT K. GRAY and JEANNE P. GRAY of Clearfield Borough, Clearfield County, Pennsylvania, parties of the second part;

W I T N E S S E T H :

WHEREAS parties of the second part are the owners of the following described tract of land situate in Lawrence Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron post at the right of way of the public

FILED

SEP 14 2005

William A. Shaw
Prothonotary

05-1416-CD

William A. Shaw, Prothonotary/Clerk of Court
Clearfield County Courthouse
1 North Second Street
Clearfield, Pa. 16830

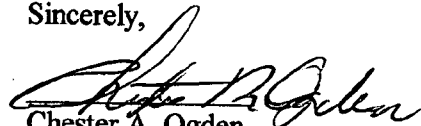
September 14, 2005

Re; Case No. 05-01416-CD
Ogden vs Gray

Dear Mr. Shaw:

Service of the Complaint was made on Robert K. Gray today, September 14, 2005, at 2:30 p.m. at Defendant's residence RD. 1, Coal Hill Road, Clearfield, Pa., involving above referenced.


Sincerely,



Chester A. Ogden
512 Hartshorn Road
Clearfield, Pa. 16830
814-765-4682

cc: Robert K. & Jeanne P. Gray

FILED *WCC*

m 10:45 AM
SEP 19 2005 

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CHESTER A. OGDEN,
Plaintiff

Vs.

ROBERT K. & JEANNE P. GRAY
Defendants

CIVIL DIVISION

No. 05 - 1416 - CD

PRELIMINARY OBJECTIONS

Filed on Behalf of:

Defendants: ROBERT K. GRAY and
JEANNE P. GRAY

Counsel of Record for This
Party:


JOSEPH COLAVECCHI, ESQUIRE
Pa. I.D. #06810

COLAVECCHI & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

FILED

9/27/05 NoCC.

OCT 11 2005 

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN, :
Plaintiff :
vs. : No. 05 - 1416 - CD
ROBERT K. & JEANNE P GRAY, :
Defendants:

PRELIMINARY OBJECTIONS

Robert K. Gray and Jeanne P. Gray, Defendants, file their Preliminary Objections to the Complaint of Chester A. Ogden, and through their Attorney, Joseph Colavecchi, Esquire, respectfully aver as follows:

**1. PRELIMINARY OBJECTION RAISING QUESTION
OF IMPROPER VERIFICATION**

The Complaint as filed in this case does not provide a signature that the statements are true and correct and verified by an oath or affirmation made subject to the penalties relating to unsworn falsification to authorities as required under R.C.P. 1024(a):1.

WHEREFORE, Defendants respectfully request that Plaintiff's Complaint be stricken.

2. **PRELIMINARY OBJECTION FOR NON-JOINER
OF NECESSARY PARTY**

As appears on the face of the Complaint and the information set forth therein, the Plaintiff is Chester A. Ogden. However, the property which Chester A. Ogden claims to own is actually in the name of Chester A. Ogden and Mona Jean Ogden. She is not named as a Plaintiff and would be a necessary party to this legal proceeding.

Said pleading is defective for non-joinder.

WHEREFORE, it is requested that the Complaint be stricken .

3. **MOTION FOR MORE SPECIFIC PLEADINGS**

Paragraphs 1 and 2 of the Complaint identifies the parties.

Paragraph 3 of the Complaint identifies an Agreement attached to the Complaint and sets forth alleged averments by Defendants.

Paragraph 4 of the Complaint again sets forth alleged averments by Defendants.

Paragraph 5 of the Complaint sets forth alleged averments by Defendants.


The Wherefore Clause seems to request that the Court direct an Order to the effect that Defendants build a road in accordance with the Agreement attached to the Complaint and over a right-of-way of land of Chester A. Ogden, and further requests that Defendants be restrained from disposing of assets without prior leave of court.

4. Just from the above paragraphs in the Complaint, it is difficult to know what the Plaintiff is setting forth, and Defendants do not have sufficient information to file an Answer to the Complaint.

5. PA. R.C.P. 1019(a) requires that the material facts on which a cause of action is based shall be stated in a concise and summary form.

6. Plaintiff's Complaint lacks sufficient specificity to apprise Defendants of the issues to be litigated and to allow them to adequately prepare and assert defenses to Plaintiff's allegations.

WHEREFORE, Defendants respectfully request that this Court Order Plaintiff to more specifically plead the averments of Paragraphs 3, 4 and 5 of the Complaint.



JOSEPH COLAVECCHI, ESQUIRE
Attorney for Defendants
221 East Market Street
Clearfield, PA 16830

VERIFICATION

I, JOSEPH COLAVECCHI, Attorney and Agent for Robert K. Gray and Jeanne P. Gray, verify that the statements made in these Preliminary Objections are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



JOSEPH COLAVECCHI

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

CHESTER A. OGDEN, :
Plaintiff :
 :
vs. : No. 05 - 1416 - CD
 :
ROBERT K. & JEANNE P. GRAY, :
Defendant :

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 10, 2005, a true and correct copy of Preliminary Objections in the above matter was served on the following by depositing said copy in the United States Mail, first class, postage prepaid and addressed as follows:

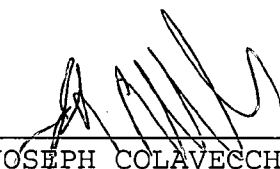
Chester A. Ogden
512 Hartshorn Road
Clearfield, PA 16830

FILED

Op: 27 Lm No Cl.
OCT 11 2005

William A. Shaw
Prothonotary

DATE: October 10, 2005


JOSEPH COLAVECCHI, ESQUIRE
221 East Market Street
P.O. Box 131
Clearfield, PA 16830
814/765-1566

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN

vs.

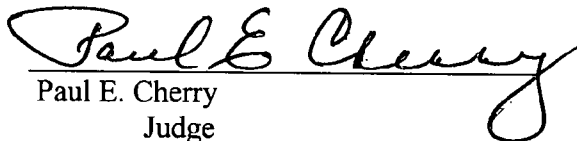
ROBERT K. & JEANNE P. GRAY

:
:
: No. 05-1416-CD
:
:

ORDER

AND NOW, this 13th day of October, 2005, upon consideration of Defendants' Preliminary Objections filed by Attorney Joseph Colavecchi in the above matter, it is the Order of the Court that argument has been scheduled for the 28th day of November, 2005, at 11:00 A.M, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

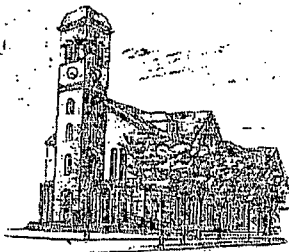

Paul E. Cherry
Judge

FILED ^{acc}
0140001 Amy J. Colavecchi
OCT 13 2005 ICC/PS
William A. Shaw 512 Hartshorn Rd.
Prothonotary/Clerk of Courts Clearfield, PA
16830

FILED

OCT 13 2005

**William A. Shaw
Prothonotary/Clerk of Courts**



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

_____ You are responsible for serving all appropriate parties.

X _____ The Prothonotary's office has provided service to the following parties:

X _____ Plaintiff(s)/Attorney(s)

X _____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

CHESTER A. OGDEN
512 Hartshorn Road
Clearfield, Pa. 16830

CIVIL ACTION

No. 05 - 1416 - CD

Type of Case: CIVIL ACTION

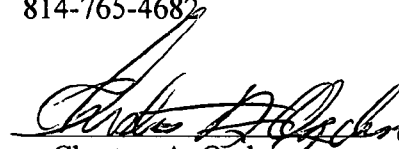
Type of pleading: Answer To

vs.

Preliminary Objections

ROBERT K. GRAY
and
JEANNE P. GRAY
R.D. 1, Coal Hill Road
Clearfield, Pa. 16830

Chester A. Ogden, pro se
512 Hartshorn Road
Clearfield, Pa. 16830
814-765-4682


Chester A. Ogden

FILED

NOV 23 2005

6 13:30 (C)
William A. Shaw

Prothonotary/Clerk of Courts

3 cents to Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN,

Plaintiff

vs.

ROBERT K. & JEANNE P. GRAY,

Defendants

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*
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No. 05 - 1416 - CD

ANSWER TO PRELIMINARY OBJECTIONS

Plaintiff answers Preliminary Objections of Robert E. Gray and Jeanne P. Gray, Defendants, filed with the Court through their attorney Joseph Colavecchi, Esquire:

1. Answer to Raising Question of Improper Verification

Plaintiff's Complaint is in compliance with the citizen's lawful right to petition Government for redress of grievance under Constitution of The United States and The Constitution of Commonwealth of Pennsylvania , and is verified by citizen's signature.

WHEREFORE, it is requested of the Court that Question of Improper Verification be dismissed.

2. Answer to **PRELIMINARY OBJECTION FOR NON-JOINER
OF NECESSARY PARTY**

Plaintiff is the only necessary party to the above captioned grievance now placed before the Court (Fed. R.Civ.P.20(a).).

WHEREFORE, it is requested of the Court that Objection For Non-Joiner of Necessary Party be dismissed

3. Answer to **MOTION FOR MORE SPECIFIC PLEADINGS**

Plaintiff submits more specific pleadings (MSP) to further explain Paragraphs 1, 2, 3, 4, and 5 of the Complaint, by following. stated;

1. (MSP), Plaintiff, Chester Ogden, is the owner of land in Lawrence Township, Clearfield County, consisting of approximately 35 acres, and a right-of- way to the property that extends from the public road, commonly known as Coal Hill Road, along and between land of Pennsylvania National Guard and land of Robert K. Gray and Jeanne P. Gray.

2. (MSP) Defendants, Robert K. and Jeanne P. Gray, are the owners of a parcel of land in Lawrence Township, Clearfield County, situate along Coal Hill Road and adjacent to land of Chester Ogden, Plaintiff herein.

3. (MSP). By Agreement entered into on 18th day of August, 1949, Between William A. Collins and Beatrice B. Collins of Clearfield Boro, and Robert K. Gray and Jeanne P. Gray of Clearfield Boro. It states;

Whereas Grays' desire to use a portion of adjacent land, consisting of right-of-way owned by Collins, for a driveway for vehicular traffic, and

Whereby Collins, in consideration of the sum of One (\$1.00) Dollar paid by Grays', conveyed authority to use twelve (12) feet of the sixteen (16) foot strip of land immediately adjoining the property of the Grays', as a driveway for vehicular traffic. It is understood and agreed between the parties hereto that no roadway or driveway is to be constructed within four (4) feet of the stone wall now erected along the line of the land formerly of Isaac Stage, and

Grays', for themselves, their heirs and assigns, covenant and agree that they will not use the right of way in such a manner as to obstruct said right of way and prevent Collins, their heirs and assigns, from gaining access to the premises. and

Grays', for themselves, their heirs and assigns, further covenant and agree that they will build a road over the said right of way and maintain it in a good passable condition at all times.

4. (MSP) Defendants failed, and continue to fail, to comply with Agreement dated 18th day of August, 1949, whereby they were lawfully bound to build a road over the right of way and maintain it in a good passable condition at all times.

5. (MSP) Defendant's failure to build the road has denied Plaintiff and others of vehicle access to land throughout the past fifty (50) years.

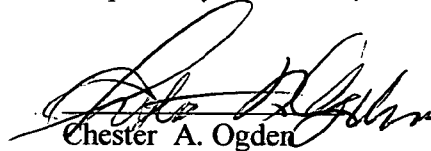
6. Plaintiff's Complaint, and Answer To Preliminary Objections, in conjunction with Defendant's knowledge of Agreement dated 18th day of August, 1949, are sufficient to apprise Defendants of matter now placed before the Court.

WHEREFORE, Plaintiff respectfully request that this Court find record of the matter sufficient to issue Order Directing Defendants To Build Road Forthwith, in compliance with Agreement dated 18th day of August, 1949, and use twelve (12) feet of the existing sixteen (16) foot strip of land immediately adjoining property of Grays' as a driveway for vehicular traffic,

that no roadway or driveway is to be constructed within four (4) feet of the stone wall now erected along the line of land formerly of Isaac Stage, and maintain the road in a good passable condition at all times.

Plaintiff further requests of the Court that Defendants be restrained from disposing of assets without prior leave of Court, pending construction of the road to the satisfaction of the Court.

Respectfully submitted,

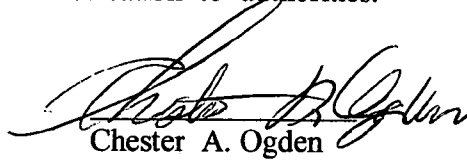
A handwritten signature in black ink, appearing to read "Chester A. Ogden", is written over the printed name.

Chester A. Ogden
512 Hartshorn Road
Clearfield, Pa. 16830
814-765-4682

Date; November 23, 2005

VERIFICATION

I, CHESTER A. OGDEN, verify that the statements made in the matter now placed before the Court are true and correct. I understand that false statements therein are made subject to the penalties of Crime Code 18 Pa. C..S. s/s 4904 relating to unsworn falsification to authorities.

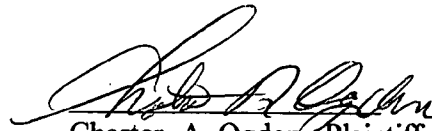


Chester A. Ogden

CERTIFICATE OF SERVICE

I, Chester A. Ogden, hereby certify that on November 25, 2005, a copy of the foregoing Answer To Preliminary Objections was served by regular U. S. Mail, postage prepaid, upon the following

Robert K. Gray and Jeanne P. Gray
RD. 1, Coal Hill Road
Clearfield, Pa. 16830


Chester A. Ogden, Plaintiff

FILED

NOV 23 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN

:

-VS-

: No. 05-1416-CD

ROBERT K. & JEANNE P. GRAY :

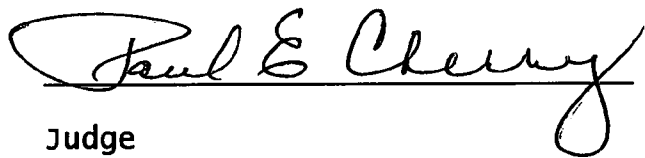
O R D E R

NOW, this 28th day of November, 2005, following argument on Defendants' Preliminary Objections, it is the ORDER of this Court as follows:

1. The Plaintiff's Answer to Defendants' Preliminary Objections shall serve as the amended complaint filed by Chester A. Ogden;

2. Defendants shall have no more than twenty (20) days from today's date to file responsive pleadings.

BY THE COURT,

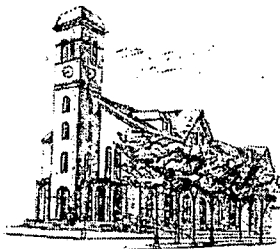

Judge

FILED² CC Piff
012:46 BD 512 Hartshorn Road
NOV 29 2005 Clearfield, PA 16830

William A. Shaw
Prothonotary/Clerk of Courts

2cc J. Colavecchi

CR



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

_____ You are responsible for serving all appropriate parties.

 X The Prothonotary's office has provided service to the following parties:

 X Plaintiff(s)/Attorney(s)

 X Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

CHESTER A. OGDEN

:

-VS-

: No. 05-1416-CD

ROBERT K. & JEANNE P. GRAY :

O R D E R

NOW, this 28th day of November, 2005, following argument on Defendants' Preliminary Objections, it is the ORDER of this Court as follows:

1. The Plaintiff's Answer to Defendants' Preliminary Objections shall serve as the amended complaint filed by Chester A. Ogden;

2. Defendants shall have no more than twenty (20) days from today's date to file responsive pleadings.

BY THE COURT,

Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CHESTER A. OGDEN,

Plaintiff

Vs.

ROBERT K. & JEANNE P. GRAY

Defendants

CIVIL DIVISION

No. 05 - 1416 - CD

DEFENDANT'S ANSWER TO AMENDED
COMPLAINT AND NEW MATTER FILED
BY PLAINTIFF, CHESTER A. OGDEN

Filed on Behalf of:

Defendants: ROBERT K. GRAY and
JEANNE P. GRAY

Counsel of Record for This
Party:

JOSEPH COLAVECCHI, ESQUIRE
Pa. I.D. #06810

COLAVECCHI & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

FILED

9/2:33 am

DEC 13 2005

2cc Atty
J. Colavecchi.

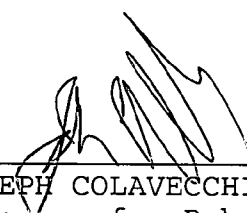
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

CHESTER A. OGDEN, :
Plaintiff :
vs. : No. 05 - 1416 - CD
ROBERT K. GRAY and JEANNE P. :
GRAY, :
Defendants :

TO: CHESTER A. OGDEN

YOU are hereby notified to file a written Reply to the enclosed New Matter within twenty (20) days from service hereof or judgment may be entered against you.



JOSEPH COLAVECCHI, ESQUIRE
Attorney for Robert K. Gray
and Jeanne P. Gray

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

CHESTER A. OGDEN, :
Plaintiff :
vs. : No. 05 - 1416 - CD
ROBERT K. GRAY and JEANNE P. :
GRAY, :
Defendants :

**DEFENDANTS' ANSWER TO AMENDED COMPLAINT FILED BY
PLAINTIFF, CHESTER A. OGDEN, AND NEW MATTER**

Robert K. Gray and Jeanne P. Gray, Defendants in the above-captioned case, through their Attorney, Joseph Colavecchi, Esquire, and as per Order of this Court dated November 28, 2005, file their Answer to the Amended Complaint and New Matter filed by Chester A. Ogden and respectfully aver as follows:

1. It is admitted that Plaintiff's Amended Complaint has a proper verification.

2. It is denied that Plaintiff is the only necessary party to the above-captioned grievance. It is averred that Mona Jean Ogden is on the last deed to this property, although it is subject to a divorce action between Chester A. Ogden and Mona Jean Ogden.

3. (1) It is admitted that Chester A. Ogden owns land in Lawrence Township.

(2) It is admitted that Robert A. Gray and Jeanne P. Gray own a parcel of land in Lawrence Township, Clearfield County, Pennsylvania.

(3) It is admitted that there is an Agreement dated August 18, 1949 between William A. Collins and Beatrice B. Collins with Robert K. Gray and Jeanne P. Gray. A copy of said Agreement which is recorded at the Clearfield County Courthouse in Book 74, Page 433, having been recorded on August 19, 1949, is attached hereto marked Exhibit "A".

(4) Denied. On the contrary, Defendants have fully complied with said Agreement, a right of way having been constructed and maintained since the date of this Agreement in 1949.

(5) Denied. On the contrary, Plaintiff has access to this right of way and his predecessors in title have also had the use of this right of way.

(6) It is admitted that Plaintiff filed a Complaint and that Defendants are now filing an Answer which denies Defendants are in violation of the Agreement dated August 18, 1949.

WHEREFORE, Defendants ask that the Complaint be dismissed and that Judgment be entered in favor of the Defendants, together with all costs.

NEW MATTER

NOW COMES, Robert K. Gray and Jeanne P. Gray who, in further Answer to Plaintiff's Complaint, Defendants aver the following New Matter:

4. Robert K. Gray and Jeanne P. Gray purchased a lot in Lawrence Township, Clearfield County, in 1949, said lot being on the East side of the National Guard Armory from James Demi.

5. At the time of the purchase by Robert K. Gray and Jeanne P. Gray, William Collins owned approximately thirty-four (34) acres immediately South of the Gray property.

6. William Collins agreed to give Robert K. Gray and Jeanne P. Gray a sixteen (16) foot right of way on the West side of the Gray property if they would construct a driveway using part of this right of way. The right of way was to extend along the Armory Wall. All of the conditions of the right of way are set out in the written agreement dated August 18, 1949.

7. In consideration of the right of way, Robert K. Gray and Jeanne P. Gray were to pay Robert Leonard to construct the road under the supervision of William Collins.

8. The right of way was then constructed by Robert Leonard and was supervised by William Collins. Said right of way was constructed to the satisfaction of Collins.

9. William Collins, Robert Leonard and Lori Smith then sited the house after the driveway was constructed.

10. It should be noted that before construction began, the entrance to the property by the Coal Hill Road by a standard vehicle was impossible due to the slope of land being quite steep which required five (5) to eight (8) feet of fill before a vehicle could use it as a roadway.

11. The driveway was completed which enabled a vehicle to access both the Gray and Collins property. This was all done as required by William Collins. It was further agreed with William Collins that the driveway should go no closer than four (4) feet to the Armory Wall to insure that no damage would occur to the wall. This was all set forth in the written agreement dated August 18, 1949.

12. William Collins utilized this driveway for a period of four (4) years until he sold the entire thirty-four (34) acres to Chester A. Ogden in 1953.

13. Since 1953 to the present, Chester A. Ogden has used the driveway numerous times each year with only one problem. Shortly after Chester A. Ogden purchased the property, he attempted access one day through the right of way. There was a vehicle parked by the garage on the driveway blocking access. It could have been a service vehicle or a visitor to the best of the recollection of Robert K. Gray and Jeanne P. Gray. Instead of asking that the vehicle be moved, Chester A. Ogden drove across the front lawn, around the house, and accessed the right of way further back. It was Spring and the ground was soft, which required major repairs by Robert K. Gray and Jeanne P. Gray.

14. The driveway has never again been used for parking to the best of the knowledge of Robert K. Gray and Jeanne P. Gray.

15. This right of way has been utilized by all parties for a period of approximately fifty-six (56) years.

16. The right of way has a macadam surface as installed by Robert K. Gray and Jeanne P. Gray and maintained for approximately fifty-six (56) years.

17. The right of way was in existence and being utilized at the time Chester A. Ogden bought the property from William A. Collins and Beatrice B. Collins.

18. Chester A. Ogden purchased the property subject to the Agreement dated August 18, 1949 between William A. Collins and Beatrice B. Collins and Robert K. Gray and Jeanne P. Gray and the right of way had been constructed prior to the purchase by Chester A. Ogden and was being utilized by William P. Collins, the Grantor of the property to Chester A. Ogden.

AVERMENT OF STATUTE OF LIMITATIONS

19. That the cause of action averred in Plaintiff's Complaint arose more than fifty-six (56) years prior to the institution of this suit, is barred by the provisions of 42 Pa. C.S.A. 5527 which provides that any civil action or proceeding which is not subject to another limitation, must be commenced within six (6) years.

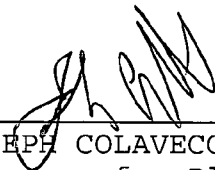
AVERMENT OF LACHES

20. That Plaintiff has unduly delayed in commencing this action for an unreasonable and unexplained length of time. Chester A. Ogden has owned his property since 1953 which is fifty-two (52) years prior to the filing of this legal action.

AVERMENT OF ESTOPPEL

21. Plaintiff has owned his property since 1953. During this time, Defendants have utilized their property and the right of way in an open and continuous manner. Plaintiff has not commenced a legal action until now. Plaintiff is estopped from filing this legal action since Defendants have continued utilizing their right of way for an uninterrupted period of fifty-six (56) years.

WHEREFORE, Robert K. Gray and Jeanne P. Gray request that Plaintiff's Complaint be dismissed and that Judgment be entered for Defendants, together with costs.

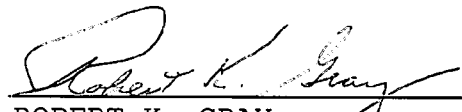


JOSEPH COLAVECCHI, ESQUIRE
Attorney for Plaintiffs
221 East Market Street
Clearfield, PA 16830
(814) 765-1566

12/12/05
Date

VERIFICATION

I verify that the statements made in this Answer and New Matter to Amended Complaint of Plaintiff, Chester A. Ogden, are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.


ROBERT K. GRAY

THIS AGREEMENT made and entered into this 18th day of August, 1949, BETWEEN WILLIAM A. COLLINS and BEATRICE B. COLLINS of Clearfield Borough, Clearfield County, Pennsylvania, parties of the first part, and ROBERT K. GRAY and JEANNE P. GRAY of Clearfield Borough, Clearfield County, Pennsylvania, parties of the second part:

W I T N E S S E T H :

WHEREAS parties of the second part are the owners of the following described tract of land situate in Lawrence Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron post at the right of way of the public road known as the Coal Hill Road and sixteen (16) feet distant from the line of land formerly owned by Isaac Stage and presently occupied by the Armory of the Pennsylvania National Guard; thence along line of said land formerly of Isaac Stage in a Southerly direction two hundred fifty (250) feet to an iron post; thence in an Easterly direction along other land of the Grantors herein one hundred twenty-two (122) feet to an iron post; thence in a Northerly direction along other land of the Grantors herein three hundred twenty-four and five tenths (324.5) feet to an iron post along the right of way of the public road known as the Coal Hill Road; thence in a Westerly direction along right of way of public road known as the Coal Hill Road to an iron post and place of beginning. CONTAINING 35,044 square feet.

WHEREAS, under the terms of the conveyance from the parties of the first part to James L. Demi et al dated September 19, 1947 and recorded at Clearfield, Pa. in Deed Book 388 at page 349, the parties of the first part reserved unto themselves, their heirs and assigns, a strip of land sixteen (16) feet in width along one side of the real estate therein conveyed, and

WHEREAS parties of the second part are now the owners of a portion of the property described in the deed above referred and which portion adjoins the sixteen (16) foot strip of land reserved, and

WHEREAS parties of the first part reserved said strip of land as a right of way to other land owned by parties of the first part, and

WHEREAS parties of the second part desire to use a portion of said strip of land insofar as it adjoins the property of parties of the second part for a driveway for vehicular traffic,

433 ✓

Parties of the second part, for themselves, their heirs and assigns, further covenant and agree that they will build a road over the said right of way and maintain it in a good passable condition at all times.

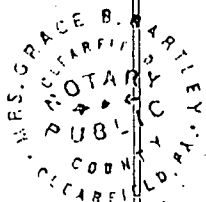
Robert K. Gray (SEAL)
 Jeannette P. Gray (SEAL)

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

On this, the 18th day of August, 1949, before me Mrs. Grace B. Bartley the undersigned officer, personally appeared WILLIAM A. COLLINS and BEATRICE B. COLLINS, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

Mrs. Grace B. Bartley
My Commission expires Jan. 7, 1951

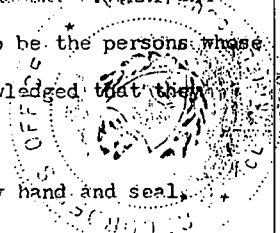


COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

On this, the 18th day of August, 1949, before me *Weir W. Mullen* the undersigned officer, personally appeared ROBERT K. GRAY and JEANNE P. GRAY, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

Weir W. Mullen



Entered for Record Aug-19 1949 12-42 AM Weir W. Mullen, Recorder

WILLIAM A. COLLINS ET AL TO ROBERT E. GRAY ET AL	
CLEARFIELD CO. SS FIELD OF RECORD JUNE 14 1949 BY <i>Wm. A. Collins</i> PERS. 3 35 (M-3)	
LAW OFFICES JOSEPH L. THOMPSON CLEARFIELD, PA.	

STATE OF PENNSYLVANIA
 COUNTY OF CLEARFIELD
 RECORDED in the Recorder's Office in and for said
 County in *District* Book No. *74*
 Page *432* etc.
 WITNESS my hand and seal of office this
19th day of *Aug.* A.D. 19*49*
Wm. A. Collins Recorder

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

Chester A. Ogden
(Plaintiff)

512 Hartshorn Road
(Street Address)

Clearfield, Pa. 16830
(City, State ZIP)

Chester A. Ogden

VS.

Robert K. Gray and Jeanne
P. Gray
(Defendant)

RD. #1, Coal Hill Road
(Street Address)

Clearfield, Pa. 16830
(City, State ZIP)

CIVIL ACTION

No. 05- 1416- CD

Type of Case: Civil

Type of Pleading: Answer New Matter

Filed on Behalf of: by

Chester A. Ogden

(Plaintiff/Defendant)

Chester A. Ogden
(Filed by)

512 Hartshorn Road
(Address)

Clearfield, Pa. 16830
(Phone) 814-765-4682

[Signature]
(Signature)

FILED

JAN 09 2006
6/10/06/wn
William A. Shaw
Prothonotary/Clerk of Courts
2 CENT 70
PLFF

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN,
Plaintiff

vs.

ROBERT K. & JEANNE P. GRAY,
Defendants

No. 05 - 1416 CD

PLAINTIFF'S ANSWER TO NEW
MATTER

FILED BY PLAINTIFF

CHESTER A. OGDEN
512 Hartshorn Road
Clearfield, Pa. 16830
814-765-4682

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN,
Plaintiff

vs.

ROBERT K. & JEANNE P.
GRAY,
Defendants

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No. 05 - 1416 - CD

PLAINTIFF'S ANSWER TO NEW MATTER

Plaintiff, Chester A. Ogden, answers New Matter of Defendants as follows

4. Admitted in part and Denied in part; Admitted that Defendants purchased a lot in Lawrence Township, Clearfield County, from James Demi in 1949. Denied that Defendant's lot is on the East side of the National Guard Armory in that Defendant's lot is on East side of land owned by Chester A. Ogden, Plaintiff herein .

5. Denied. The claim distorts fact in that at the time Defendants purchased their property in 1949, William Collins owned approximately thirty-four (34) acres of land immediately south and West of land owned by Grays'.

6. Denied. William Collins did not agree to give Robert K. Gray and Jeanne P. Gray a sixteen (16) foot right of way on the West side of the Gray property. Collins agreed to Grays' building a road, on the right of way of Collins, in exchange for using the land for vehicle access to their residence.

7. Denied. After reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of said averment.

8. Denied. After reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of said averment.

9. Denied. After reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of said averment.

10. Denied. The averment is not relevant to Agreement dated August 18, 1949

11. Denied. The driveway was not completed in compliance with Agreement dated August 18, 1949. Instead a driveway was only constructed to Gray residence and in such fashion that it obstructed vehicle access to adjacent land of Collins.

12. Denied. After reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of said averment.

13. Denied. Plaintiff never displayed conduct disrespectful of Robert K. and Jeanne P. Gray, and throughout the past fifty-three (53) years, Plaintiff has complained to Robert Gray of failure to build a road on the right of way as required in Agreement dated August 18, 1949.

14. Denied. Defendant's have used Plaintiff's right of way as their private property throughout the past fifty-three (53) years.

15. Denied. The right of way has not been utilized by all parties for a period of approximately fifty-six (56) years

16. Denied. The right of way, defined in Agreement, does not have a macadam surface.

17. Admitted in part, Denied in part. Admitted that the right of way was in existence at the time Chester A. Ogden bought the property from Collins, Denied that the right of way was being utilized at the time the land was purchased from Collins.

18. Admitted in part, Denied in part. Admitted that Chester A. Ogden purchased the property subject to the Agreement dated August 18, 1949, Denied that the right of way had been constructed prior to the purchase by Chester A. Ogden

AVERMENT OF STATUTE OF LIMITATIONS.

19. Denied. After reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief in the truth of said averment.

AVERMENT OF LACHES

20. Denied. Plaintiff did not unduly delay in commencing this action for an unreasonable and unexplained length of time. To the contrary Chester A. Ogden has displayed courtesy and consideration towards Grays' throughout the past fifty-two (52) years, by requesting that a road be construct on the right of way as they agreed to do in Agreement dated August 18, 1949, which would represent reasonable exchange for use land of another, and with Grays' having refused to honor the landowner's request throughout past years, it became a matter to be placed before the court.

AVERMENT OF ESTOPPLE

21. Denied. After reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of said averment.

AVERMENT OF PLAINTIFF

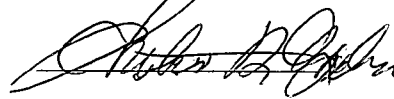
Plaintiff's grievance is derived from an Agreement dated August 18, 1949 between William A. Collins and Beatrice B. Collins, and Robert K. Gray and Jeanne P. Gray. A copy of said Agreement having been attached to Plaintiff's Complaint marked Exhibit A. In 1953 Chester A. Ogden purchased approximately thirty-four (34) acres in Lawrence Township, Clearfield County, Pennsylvania, from William A. and Beatrice B. Collins subject to Agreement dated August 18, 1949 between Collins and Grays'. The Agreement pertained to a right of way sixteen (16) feet wide situate between land of Grays' and Pennsylvania National Guard Armory along Coal Hill Road in Lawrence Township, and involved Collins agreeing to Grays' use of the right of way as a driveway for vehicular traffic, in exchange for Grays' building a road over the right of way and maintaining it in a good passable condition at all times. It should be noted that the right of way represents the only means by which a vehicle can access considerable acreage on North West side of Plaintiff's land. The Agreement states that party of the first part (Collins) give and grant unto the parties of the second part (Grays') at all times hereafter to enter upon and use twelve (12) feet of the sixteen (16) foot strip of land, the said twelve (12) feet to be those immediately adjoining the property of the second part

(Grays'), as a driveway for vehicular traffic, it is understood and agreed that no roadway or driveway is to be constructed within four (4) feet of the stone wall now erected along the line of land formerly of Isaac Stage. Parties of the first part (grays') agreed that they will not use said right of way in such a manner as to obstruct said right of way and prevent parties of the first part (Collins) from gaining access to the premises. Parties of the first part (Grays') agree that they will build a road over the right of way and maintain it in a good passable condition at all times. However, Grays', Defendants herein, never complied with the Agreement dated August 18, 1949 in that Grays' (a) did not construct a road on the twelve (12) feet immediately adjoining their property, (b) did not construct a road over the right of way, (c) did not maintain a road in a good passable condition, and (d) did prevent parties of the first part (Ogden) from gaining access to the premises of party of the first part their heirs and assigns.

WHEREFORE, It is requested of the Honorable Court that judgment be in favor of Plaintiff and against Defendants and that Defendants be instructed to pay Five Hundred (\$500.) Dollars to Plaintiff as costs of litigation, and such other costs as may be determined by the Court. And further requesting that the Court issue order on defendants, Order To

Construct Road, forthwith pursuant to Agreement dated August 18, 1949,
and restraining defendants from disposing of assets without leave of Court

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chester A. Ogden", written over a horizontal line.

Chester A. Ogden, Plaintiff
512 Hartshorn Road
Clearfield, Pa. 16830
(814) 765-4682

January 9, 2006
Date

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN

Plaintiff

vs.

ROBERT K. and JEANNE P. GRAY

Defendants

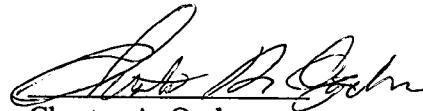
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No. 05 - 1416 - CD

CERTIFICATE OF SERVICE

I, undersigned, hereby certify that a true and correct copy of Plaintiff's Answer to New Matter in above-captioned was served on the following January 8, 2006 by depositing said copy in United States Mail, first class, postage prepaid, and addressed as follows:

Robert K. & Jeanne P. Gray
RD #1, Coal Hill Road
Clearfield, Pa. 16830




Chester A. Ogden
512 Hartshorn Road
Clearfield, Pa. 16830
814-765-4682

Date:: January 8, 2006

VERIFICATION

I, Chester A. Ogden, undersigned, verify that the statements made in the foregoing Answer To New Matter are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. s/s 4904 relating to unsworn falsification to authorities.



Chester A. Ogden

FILED

JAN 09 2006

William A. Shaw
Prothonotary/Clerk of Courts

Ronda- we received this letter in the
Prothonotary's office. Judge Cherry
instructed us to file it & said it
needed to go on the trial list.

~~Enclosed~~

Bonnie

Paul E. Cherry, Judge
Clearfield County Courthouse
1 North Second Street
Clearfield, Pa. 16830

April 22, 2006

RE: Case No. 05-1416-CD
Ogden vs Gray

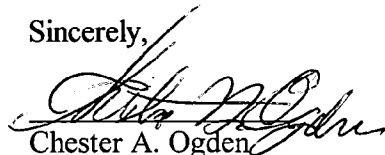
Dear Judge Cherry;

This is to request information on status of the case and what needs to be done to bring it to a conclusion, involving above referenced case.

Record reflects the case being inactive since Plaintiff filed New Mater with the Prothonotary on January 9, 2006, and the passing of time is depriving plaintiff of productive use of his land.

Your assistance will be greatly appreciated.

Sincerely,



Chester A. Ogden
512 Hartshorn Road
Clearfield, Pa. 16830
814-765-4682

cc: Robert K. & Jeanne P. Gray
William A. Shaw, Prothonotary

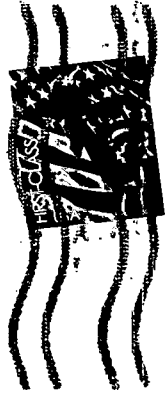
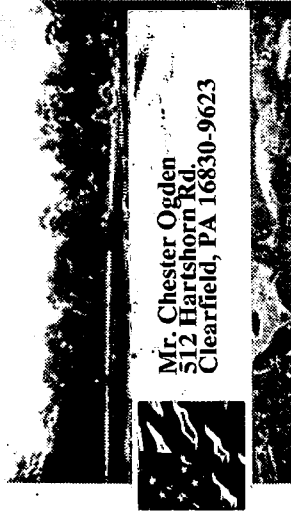
FILED

APR 25 2006

William A. Shaw
Prothonotary/Clerk of Courts

NO CC

Filed in per
Judge Cherry's
instruction



PITTSBURGH PA 152

22 APR 2006 PM 5 T

William A. Shaw, Prothonotary
Clearfield County Courthouse
1 North Second Street
Clearfield, Pa. 16830

16830-9623

Bonnie,
Please
Keep in
file - HQ
sch per Judge C
from this
lth: TFR

David S. Meholick, Court Administrator
Clearfield County Courthouse
Suite 228, 230 East Market Street
Clearfield, Pa. 16830

FILED *no cc*
m 12:32 PM
MAY 09 2006

William A. Shaw
Prothonotary/Clerk of Courts *CR*

May 2, 2006

RE: Case No. 2005-1416-CD
Ogden vs Gray

Dear Mr. Meholick:

This pertains to your letter of April 28th explaining that it would be necessary for me to file a certificate of readiness pursuant to Local Rule 2122 "Praeipce for Trial" in order to properly list the mater for trial.

Not being educated in practice of law and legal procedures. I have petitioned government for redress of grievance in accordance with citizens rights under Constitution of The United States. The Complaint filed with the court charges Defendants with failure to comply with Agreement made and entered into on 18th day of August, 1949, whereby Robert K. Gray and Jeanne P. Gray agreed that "they will build a road over the said right of way and maintain it in a good passable condition at all times". In substance, Gray's agreed to construct a road on a right-of-way adjacent to their land in exchange for using the road for vehicular traffic.

The right-of-way is a strip of land in Lawrence Township, Clearfield County, situate between land of Robert K. and Jeanne P. Gray and land of Pennsylvania National Guard Armory, consisting of 836.7 feet long by 16 feet wide, owned by Plaintiff

As record of the mater reflects; The Complaint was filed with the Court September 14, 2005 and Defendants charged with failure to build a road in accordance with Agreement dated 18th day of August, 1949. Defendants acquired assistance of counsel Joseph Colavecchi, Esquire and, while he filed preliminary objections with the Court, he did not address the mater for which Defendants were charged.

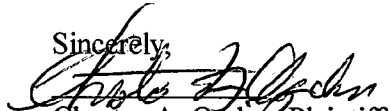
Based on information filed with the Court. No evidence exists of Defendants complying with Agreement dated August 18, 1949, and the two photographs produced on November 28, 2005, at Argument on Defendants' Preliminary Objections, establish evidence of fact that no road exists on the right-of-way between residence of Defendants and land of Pa. National Guard Armory

At proceedings conducted November 28, 2005. Judge Cherry said what he intended to do and that we'll go from there. Which I interpreted to mean that he would be rendering a decision on the matter as soon as possible.

This matter has been an ongoing dispute for more than fifty (50) years and has prevented Plaintiff, his heirs and assigns, from gaining access to the premises, and the claim for damages caused will increase with the passing of time

Having requested of the Court to issue Order Directing Defendants to Build Road in accordance with Agreement dated August 18, 1949, and further requesting that Defendants be restrained from disposing of assets without prior leave of Court. I trust that the Court renders a decision on the request.

Sincerely,


Chester A. Ogden, Plaintiff
512 Hartshorn Road
Clearfield, Pa. 16830
(814) 765-4682

cc: Robert K. and Jeanne P. Gray
Honorable Paul E. Cherry
William A. Shaw, Prothonotary/Clerk of Court ✓

FILED

MAY 09 2006

William A. Shaw
Prothonotary/Clerk of Courts

NOTED

RECEIVED

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN

vs.

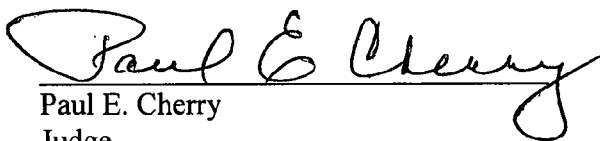
ROBERT K. GRAY AND
JEANNE P. GRAY

:
:
: No. 05-1416-CD
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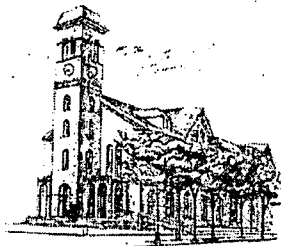
ORDER

AND NOW, this 9th day of May, 2006, upon consideration of Request for Hearing on Plaintiff's Complaint filed in the above matter, it is the Order of the Court that hearing has been scheduled for the **6th day of June 2006, at 1:30 P. M.** in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA. One-half (1/2) day has been allotted for this matter.

BY THE COURT:


Paul E. Cherry
Judge

FILED 1cc/Diff
01/0:59/01 512 Hartshorn Rd.
MAY 10 2006 Clearfield, PA 16830
William A. Shaw
Prothonotary/Clerk of Courts 2cc Amy J. Colaverechi



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 5/10/06

_____ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

X Plaintiff(s)/Attorney(s)

X Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CHESTER A. OGDEN,

Plaintiff

Vs.

ROBERT K. & JEANNE P. GRAY

Defendants

CIVIL DIVISION

No. 05 - 1416 - CD

MOTION FOR SUMMARY JUDGMENT

Filed on Behalf of:

Defendants: ROBERT K. GRAY and
JEANNE P. GRAY

Counsel of Record for This
Party:

JOSEPH COLAVECCHI, ESQUIRE
Pa. I.D. #06810

COLAVECCHI & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

LAW OFFICES OF
COLAVECCHI
& COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

FILED
0/8:5561
MAY 17 2006

3cc
Atty Colavecchi

William A. Shaw
Prothonotary/Clerk of Courts

GR

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN, :
Plaintiff :
vs. : No. 05 - 1416 - CD
ROBERT K. & JEANNE P GRAY, :
Defendants:

MOTION FOR SUMMARY JUDGMENT

NOW COMES, Joseph Colavecchi, Esquire, Attorney for Defendants, Robert K. Gray and Jeanne P. Gray, his wife, and files this Motion for Summary Judgment as follows:

1. Plaintiff filed a Complaint on September 14, 2005 setting forth that he is the owner of approximately 34 acres and a right-of-way to the property consisting of 16 feet in width situated between land owned by Defendants and the Pennsylvania National Armory along the public road known as Coal Hill Road in Lawrence Township, Clearfield County, Pennsylvania.

Further, said Complaint sets forth that the Defendants are owners of a tract of land containing 35,044 square feet situated East of and immediately adjoining the right-of-way of Plaintiff.

2. The Complaint sets forth that pursuant to an Agreement made on August 18, 1949, the Defendants desired to use a portion of said strip of land insofar as it adjoins the property of (now Ogden) and used twelve (12) feet of the sixteen (16) foot strip of land heretofore reserved by (now Ogden). The said twelve (12) feet to be those immediately adjoining the property of Gray as a driveway for vehicular traffic. Ogden further sets forth that it is understood and agreed between the parties that no roadway or driveway is to be constructed within four (4) feet of the stone wall now erected along the line of land formerly of Isaac Stage.

Ogden further set forth that the Defendants covenanted and agreed that they would not use said right of way in such manner as to obstruct said right of way and prevent parties (now Ogden), their heirs and assigns) from gaining access to the premises of the parties (now Ogden), their heirs and assigns.

Plaintiff further stated that the Defendants for themselves, their heirs and assigns, covenanted and agreed that they would build a road over said right of way and maintain it in good passable condition at all times.

3. Plaintiff further set forth in his Complaint that since 1953, Defendants failed to construct a road over the right of way and have obstructed Plaintiff's use of the right of way by parking

vehicles on the property and continue to use Plaintiff's property without authorization.

4. Plaintiff asked the Court to issue an Order directing the Defendants to build a road in accordance with Agreement dated August 18, 1949 over the right of way of land of Chester A. Ogden in Lawrence Township, Clearfield County, Pennsylvania, and further requested that Defendants be restrained from disposing of assets without prior leave of court.

4. Defendants filed Preliminary Objections on or about October 10, 2005. Plaintiff alleged that Defendants failed to join a necessary party; namely Mona Jean Ogden, co-owner of Plaintiff's property, that Plaintiff's Complaint lacks sufficient specificity to apprise Defendants of the issues to be litigated and allow them to adequately prepare and assert defenses, and that the Plaintiff's Complaint did not provide a statement with a signature that the statements are true and correct.

5. Plaintiff filed an Answer to Preliminary Objections on November 23, 2005 responding that his Complaint was verified by signature, that his former wife is not a necessary party, and set forth more specific pleadings to explain paragraphs one through five of the Complaint.

6. Argument was heard on the Preliminary Objections on November 28, 2005 at which time the court set forth that Plaintiff's Answer to Defendants' Preliminary Objections shall

serve as an Amended Complaint and gave Defendant twenty (20) days to file a responsive pleading.

7. An Answer and New Matter to Amended Complaint was filed on or about December 13, 2005. The New Matter of said Answer set forth that the cause of action averred in Defendant's Complaint arose more than 56 years prior to the institution of the suit and was barred by 42 Pa. C.S.A. 5527, being the Statute of Limitations.

Further set forth was that Plaintiff's Complaint was barred by laches because Plaintiff has unduly delayed in commencing this action for an unreasonable and unexplained length of time. It was further barred by estoppel since the Defendants have utilized their property and the right of way in an open and continuous manner since 1953, and Plaintiff did not object nor did he take any legal action against the Defendants until September 14, 2005 when the original Complaint was filed. This period of time is approximately 52 years which is way beyond the six year Statute of Limitations as set forth in 42 Pa. C.S.A. 5527.

8. Plaintiff filed an Answer to New Matter on January 8, 2006 replying specifically only to the averment of laches and setting forth that Plaintiff displayed courtesy and consideration toward the Defendants for the past 52 years by requesting that a road be constructed on the right of way and that Defendants refused to honor the landowner's request throughout the years.

9. Pa. R.C.P. 1035.2 sets forth that after the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may move for Summary Judgment in whole or in part as a matter of law (1) when there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report.

10. 42 Pa. C.S.A. 5527 sets forth that any civil action or proceeding which is neither subject to another limitation specified in this subchapter nor excluded from the application of a period of limitation by Section 5531 (relating to no limitation), must be commenced within six years.

11. In the case at hand, Plaintiff has owned his property since 1953. The Defendants have owned their property since 1949 and entered into the agreement in question at that time. The Defendants have continued to use the right of way since they bought the property and Plaintiff did not object nor did he take any legal action against the Defendants until September 14, 2005 when the original Complaint was filed. This period of time is approximately 52 years which is way beyond the six year period as set forth in 42 Pa. C.S.A. 5527.


12. The Statue of Limitation clearly bars this claim as it is not subject to any other limitations. Further, the Plaintiff's claim is barred by laches because an undue lapse of time has

occurred in enforcing an alleged right of action, said period being approximately 52 years.

13. Plaintiff is now estopped from going any further with a legal action because Defendants have utilized their property and said right of way in a continuous manner since 1953, with no legal action being filed until September 14, 2005.

14. Based on the foregoing, Summary Judgment is appropriate in this case because there is no genuine issue of material fact nor can any issue of material fact be established by discovery in this claim.

WHEREFORE, Defendants request that Summary Judgment be entered in this case against the Plaintiff and that Plaintiff's Complaint be dismissed with prejudice.



JOSEPH COLAVECCHI, ESQUIRE
Attorney for Defendants
221 East Market Street
Clearfield, PA 16830

May 17, 2006
DATE

FILED

MAY 17 2006

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CHESTER A. OGDEN,
Plaintiff

vs.

ROBERT K. & JEANNE P. GRAY
Defendants

CIVIL DIVISION

No. 05 - 1416 - CD

PETITION TO PLACE CASE ON
TRIAL LIST

Filed on Behalf of:

Defendants: ROBERT K. GRAY and
JEANNE P. GRAY

Counsel of Record for This
Party:

JOSEPH COLAVECCHI, ESQUIRE
Pa. I.D. #06810

COLAVECCHI & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

LAW OFFICES OF
COLAVECCHI
& COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

FILED 3cc
012:5761
MAY 17 2006
Amy Colavecchi
GP

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN, :
Plaintiff :
 :
vs. : No. 05 - 1416 - CD
 :
ROBERT K. & JEANNE P GRAY, :
Defendants: :

PETITION TO PLACE CASE ON TRIAL LIST

Robert K. Gray and Jeanne P. Gray, his wife, through their Attorney, Joseph Colavecchi, Esquire, file this Petition requesting that the above case be placed on the Trial List and respectfully aver as follows:

1. Petitioner received an Order from the Court dated May 9, 2006 directing that this case come before the Court for Trial on June 6, 2006 at 1:30 p.m.

2. The above Order was evidently in response to a letter written by Defendant to the Court dated May 2, 2006.

3. However, this case was never formally placed on the Trial List and was not called for trial as is normal under Local Rule 212.3.

4. There has never been a Pre-Trial Conference as set out in Local Rule 212.4.


5. There has never been a Pre-Trial Statement by the parties as also set out in Local Rule 212.4.

6. There has never been an Order setting forth whether the case is going to be a Jury Trial or a Non-Jury Trial and a date certain for the commencement of the trial, after being called for trial, and a Pre-Trial Conference held with suitable Pre-Trial Statements.

7. For all of the above reasons, Petitioner is asking that a Rule be issued and directed to Plaintiff to show cause why the present trial scheduled in this case for June 6, 2006 should not be canceled so that the case may go through the normal procedure of being listed for trial, being called for trial, a Pre-Trial Conference being held with Pre-Trial Statements being given to the Court, and an actual trial date scheduled by the Court.

WHEREFORE, Petitioner asks that a Rule to Show Cause be directed to Chester A. Ogden, Plaintiff in the above-captioned case, to show cause why the present trial date should not be canceled.

Respectfully submitted:



JOSEPH COLAVECCHI, ESQUIRE
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

CHESTER A. OGDEN, :
Plaintiff :
 :
vs. : No. 05 - 1416 - CD
 :
ROBERT K. & JEANNE P. GRAY, :
Defendant :


CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 17, 2006, a true and correct copy of the Motion for Summary Judgment in the above matter was served on the following by depositing said copy in the United States Mail, first class, postage prepaid and addressed as follows:

Chester A. Ogden
512 Hartshorn Road
Clearfield, PA 16830

FILED
MAY 23 2006
0/3:30/6
William A. Shaw
Prothonotary/Clerk of Courts
No C/c

DATE: May 17, 2006


JOSEPH COLAVECCHI, ESQUIRE
221 East Market Street
P.O. Box 131
Clearfield, PA 16830
814/765-1566

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN :
 :
 :
 vs. : No. 05-1416-CD
 :
 :
 ROBERT K. & JEANNE P. GRAY :

ORDER

AND NOW, this 23rd day of May, 2006, it is the ORDER of this Court that hearing on Complaint scheduled for Tuesday, June 6, 2006 be and is hereby continued until the 23rd day of August, 2006 at 9:00 AM, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA. It is the further Order of this Court that argument on Defendant's Motion For Summary Judgment and Petition to Place Case on Trial List shall be held on Tuesday, June 6, 2006 at 1:30 PM, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

FILED

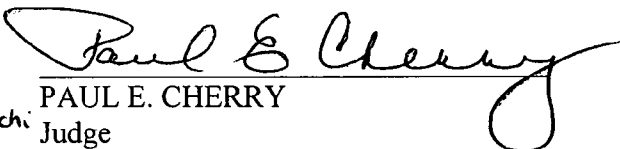
01 10:07 AM
MAY 24 2006

1CC Piff-
512 Hartshorn Rd.
Clearfield, PA
16830

William A. Shaw
Prothonotary/Clerk of Courts

2CC Amy J. Colavecchi
6N

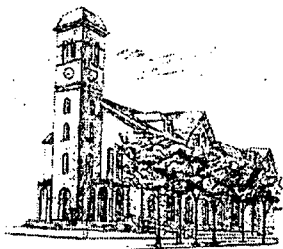
BY THE COURT:


PAUL E. CHERRY
Judge

FILED

MAY 24 2006

**William A. Shaw
Prothonotary/Clerk of Courts**



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 5/24/06

_____ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

X Plaintiff(s)/Attorney(s)

X Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CHESTER A. OGDEN,
Plaintiff

vs.

ROBERT K. & JEANNE P. GRAY
Defendants

CIVIL DIVISION

No. 05 - 1416 - CD

RULE

Filed on Behalf of:

Defendants: ROBERT K. GRAY and
JEANNE P. GRAY

Counsel of Record for This
Party:

JOSEPH COLAVECCHI, ESQUIRE
Pa. I.D. #06810

COLAVECCHI & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

LAW OFFICES OF
COLAVECCHI
& COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

FILED 3cc
01:10:03 PM
MAY 24 2006
Any Colavecchi
(CW)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN, :
Plaintiff :
vs. : No. 05 - 1416 - CD
ROBERT K. & JEANNE P GRAY, :
Defendants: :

O R D E R

AND NOW, this 22nd day of May, 2006, upon consideration of the foregoing Petition to Place Case on Trial List, a Rule is hereby issued upon the CHESTER A. OGDEN to Show Cause why the Petition should not be granted. Rule Returnable the 6th day of June, 2006 at 1:30 o'clock P.M. at the Clearfield County Courthouse, Courtroom Number 2.

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

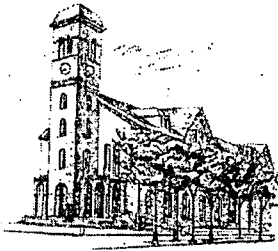
YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
SECOND AND MARKET STREETS
CLEARFIELD, PA 16830
814/765-2641 EXT. 5982

LAW OFFICES OF
COLAVECCHI
& COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

BY THE COURT:

Paul E Cherry
JUDGE



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 5/24/06

X You are responsible for serving all appropriate parties.

 The Prothonotary's office has provided service to the following parties:

 Plaintiff(s)/Attorney(s)

 Defendant(s)/Attorney(s)

 Other

 Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CHESTER A. OGDEN,
Plaintiff

Vs.

ROBERT K. & JEANNE P. GRAY
Defendants

CIVIL DIVISION

No. 05 - 1416 - CD

:

PETITION FOR CONTINUANCE

Filed on Behalf of:

Defendants: ROBERT K. GRAY and
JEANNE P. GRAY

Counsel of Record for This
Party:

JOSEPH COLAVECCHI, ESQUIRE
Pa. I.D. #06810

COLAVECCHI & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

FILED

MAY 26 2006

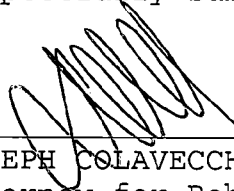
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William A. Shaw
Prothonotary/Clerk of Courts
3 CEN TO ATT

LAW OFFICES OF
COLAVECCHI
& COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

3. Joseph Colavecchi, Esquire represents Michael A. Cimino, one of the Defendants in this case.

4. Since Petitioner cannot be in two places at the same time, he is respectfully requesting that the trial of the above-captioned case presently scheduled for August 23, 2006 be continued.

Respectfully submitted:



JOSEPH COLAVECCHI, ESQUIRE
Attorney for Robert K. and
Jeanne P. Gray

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

SWISHER CONTRACTING, INC.

vs.

No. 04-1764-CD

KENNETH K. RISHEL AND SONS, INC.,

vs.

MICHAEL A. CIMINO, BARBARA A.
JONES, DIANE C. CADDY and
TINA M. DICK

ORDER

AND NOW, this 29th day of March, 2006, it is the ORDER of the Court that Civil Non-Jury Trial in the above-captioned matter has been scheduled for **Tuesday, August 22, 2006 and Wednesday, August 23, 2006 commencing at 9:00 A.M.** each day in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA. One and one-half (1 ½) days has been allotted for this trial.

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

MAR 29 2006

Attest.

William D. Shuman
Prothonotary/
Clerk of Courts

BY THE COURT:

/s/ Fredric J. Ammerman
FREDRIC J. AMMERMAN
President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

CHESTER A. OGDEN, :
Plaintiff :
 :
vs. : No. 05 - 1416 - CD
 :
ROBERT K. & JEANNE P. GRAY, :
Defendant :

CERTIFICATE OF SERVICE


The undersigned hereby certifies that on May 25, 2006, a true and correct copy of the Petition to Place Case on Trial List and Rule in the above matter was served on the following by depositing said copy in the United States Mail, first class, postage prepaid and addressed as follows:

Chester A. Ogden
512 Hartshorn Road
Clearfield, PA 16830

FILED

MAY 26 2006
013110/12 (12)
William A. Shaw
Prothonotary/Clerk of Courts
W - Court Clerk

DATE: May 25, 2006


JOSEPH COLAVESCHI, ESQUIRE
221 East Market Street
P.O. Box 131
Clearfield, PA 16830
814/765-1566

LAW OFFICES OF
COLAVECCHI
& COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN

vs.

ROBERT K. & JEANNE P. GRAY

:
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:
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No. 05-1416-CD

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05:02 PM
MAY 30 2006 Piff

William A. Shaw
Prothonotary/Clerk of Courts

MOTION FOR PROMPT DISPOSITION

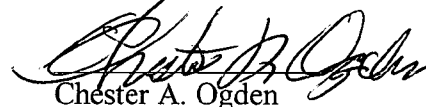
NOW, this 30th day of May, 2006, Plaintiff requests of the Honorable Court that the above captioned case be scheduled for Hearing of Argument and Disposition by The Court on June 6, 2006 at 1:30 PM. and allott one-half (1/2) day for the matter. The day and time having been set for Hearing on Plaintiff's Complaint by Order of Court 9th day of May, 2006 and, by Order of Court 23rd day of May, 2006, continued until the 23rd day of August, 2006 at 9:00 AM.

Plaintiff's Complaint charges Defendants with failure to construct a road on a right of way in accordance with an agreement dated August 18, 1949. In reply, Defendants have stated that they built a road as they agreed to do pursuant to the Agreement dated August 18, 1949

Therefore; The matter before the Court involves the question; Did Defendants construct a road in compliance with the Agreement dated August 18, 1949?

Plaintiff is confident that settlement of the matter can be accomplished June 6, 2006, within the one-half day allotted.

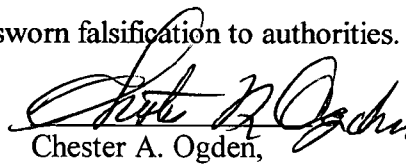
Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Chester A. Ogden", is written over the typed name.

Chester A. Ogden
512 Hartshorn Road
Clearfield, Pa. 16830
814-765-4682

VERIFICATION

I, Chester A. Ogden, verify that the statements made in the foregoing two pages are true and correct. I understand that false statements herein are made subject to the of Crime Code 18 Pa. C.S. s/s 4904 relating to unsworn falsification to authorities.


Chester A. Ogden,

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN,
Plaintiff

vs.

ROBERT K. & JEANNE P. GRAY,
Defendants

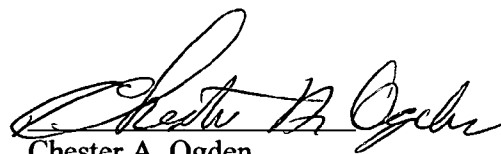
No. 05 - 1416 - CD

CERTIFICATE OF SERVICE

I, Chester A. Ogden, hereby certify that on May 30, 2006 a true and correct copy of Motion For Prompt Disposition was served on the following listed by depositing a copy in the United States Mail, First Class, Postage prepaid and addressed as follows:

Robert K and Jeanne P. Gray
RD. #1, Coal Hill Road
Clearfield, Pa. 16830

Date: May 30, 2006



Chester A. Ogden
512 Hartshorn Road
Clearfield, Pa. 16830
814-765-4682

FILED

MAY 30 2006

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CHESTER A. OGDEN,
Plaintiff

Vs.

ROBERT K. & JEANNE P. GRAY
Defendants

CIVIL DIVISION

No. 05 - 1416 - CD

ORDER

Filed on Behalf of:

Defendants: ROBERT K. GRAY and
JEANNE P. GRAY

Counsel of Record for This
Party:

JOSEPH COLAVECCHI, ESQUIRE
Pa. I.D. #06810

COLAVECCHI & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

LAW OFFICES OF
COLAVECCHI
& COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

FILED 300
05/21/06
MAY 31 2006
Amy Colavecchi
@K

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN,

Plaintiff :

vs. :

No. 05 - 1416 - CD

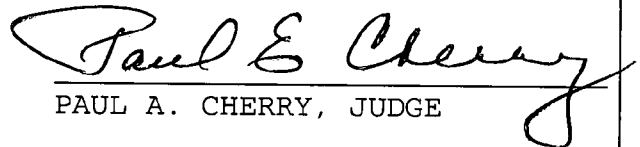
ROBERT K. & JEANNE P GRAY,

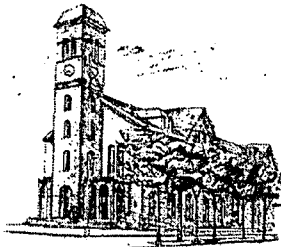
Defendants:

O R D E R

AND NOW, this 30th day of May, 2006, upon
consideration of the Petition for Continuance filed by Joseph
Colavecchi, Esquire, Attorney for Robert K. Gray and Jeanne P.
Gray, and it appearing that he is already scheduled for trial in
another case, it is hereby ORDERED and DECREED that the above-
captioned case scheduled for trial on August 23, 2006 is continued
and the trial is rescheduled to be held on the 6th day of
September, 2006 at 9:00 o'clock A.M.
at the Clearfield County Courthouse, Courtroom Number 2.

BY THE COURT:


PAUL A. CHERRY, JUDGE



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 5/31/06

X You are responsible for serving all appropriate parties.

 The Prothonotary's office has provided service to the following parties:

 Plaintiff(s)/Attorney(s)

 Defendant(s)/Attorney(s)

 Other

 Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

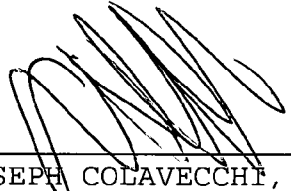
CHESTER A. OGDEN, :
Plaintiff :
vs. : No. 05 - 1416 - CD
ROBERT K. & JEANNE P. GRAY, :
Defendant :

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 2, 2006, a true and correct copy of the Petition for Continuance and Order in the above matter was served on the following by depositing said copy in the United States Mail, first class, postage prepaid and addressed as follows:

Chester A. Ogden
512 Hartshorn Road
Clearfield, PA 16830

DATE: June 2, 2006


JOSEPH COLAVECCHI, ESQUIRE
221 East Market Street
P.O. Box 131
Clearfield, PA 16830
814/765-1566

LAW OFFICES OF
COLAVECCHI
& COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

FILED ^{NO CC}
012:34/51
JUN 02 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN

-vs-

ROBERT K. GRAY and
JEANNE P. GRAY

:
:
:
:
:
:

No. 05-1416-CD

N O T I C E

In accordance with the Rules of Appellate Procedure, Rule 1922, Notice is hereby given that if no objections are made to the text of the transcript within five (5) days after such notice, the transcript in the above-captioned matter will become part of the record upon being filed in the Prothonotary's office.

DATE: July 6, 2006

Thomas D. Snyder
Thomas D. Snyder, RPR
Official Court Reporter

FILED
016240801
JUL 13 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN,

Plaintiff

vs

ROBERT K. and

JEANNE P.. GRAY,

Defendants

No. . 05 - 1416 - CD

Plaintiff's Statement

Filed by Plaintiff

Chester A. Ogden

512 Hartshorn Road

Clearfield, Pa. 16830

814- 765- 4682

FILED

0/8:30am

all Piff

AUG 23 2006 CR

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN,	*	
Plaintiff	*	
	*	
vs	*	No. 05 - 1416 - CD
	*	
ROBERT K. & JEANNE P. GRAY	*	
Defendants	*	

PLAINTIFF'S STATEMENT

This is the day and time set for hearing of complaint
filed with the court at No. 05 -1416 - CD, and whereby Plaintiff
submits the following.

1. On September 14, 2006, ⁰⁵⁻¹⁴¹⁶ Chester A. Ogden, Plaintiff / Citizen,
petitioned Government for redress of grievance charging Robert K. and
Jeanne P. Gray, Defendants, with violation of agreement dated August
18, 1949. and with a copy of Agreement attached to Complaint
marked Exhibit "A",

2. The grievance placed before the court is between Plaintiff,
Chester A. Ogden, and, Defendants, Robert K. Gray & Jeanne P. Gray.

3. On June 6, 2006. at hearing of argument before the court Defendants did not appear and, instead, used Joseph Colavecchi as a substitute.

4. Plaintiff objects to judicial administration that permits a named Defendant to use a substitute in a grievance placed before the court

5. Plaintiff alleges that fair treatment cannot exist in a court of law when a trained professional is pitted against an amateur.

6. The Complaint charges Defendants with violation of Agreement made 18th day of August, 1949 whereas Gray's agreed to build a road on a right of way and maintain it in a good passable condition at all times.

7. Defendants' did not build a road on the right of way, as Grays' agreed to do in Agreement dated August 18, 1949.

8. On November 28, 2005 at Hearing of Defendants' Preliminary Objections, Plaintiff produced three photographs of the area in controversy, photo dated 11/25/2005, as further evidence of Defendants' violating Agreement, and

9. Counsel for Defendant, Joseph Colavecchi, identified the photographs as that of area in controversy, because he resides in the area.

10. Plaintiff's complaint requested that the court issue Order Directing Defendants To Build Road in compliance with Agreement dated August 18, 1949, and further requested that Defendants' be restrained from disposing of assets without prior leave of court.

11 More than fifty-seven (57) years have passed without Grays' complying with an agreement of their own creation;

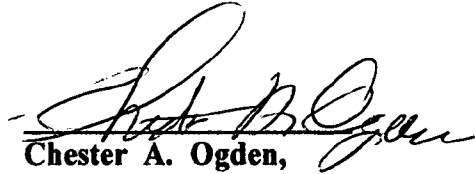
- (A) No road constructed**
- (B) Removed material from land of another without authorization**
- (C) Use material from land of another to landscape that of Defendant**
- (D) Obstructed vehicle traffic to land of another**
- (E) Uses land of another without authorization**
- (F) Uses land of another without payment of compensation**

12. More than eleven month have passed since filing the grievance with the Court and no action taken against Defendant, and

13. While Plaintiff pays taxes on land he can't use, Defendants' have used the land for more than fifty years as a driveway to their residence without payment of compensation.

WHEREFORE; Plaintiff requests of the Honorable Court to issue Order To Build Road Forthwith on defendants', That Defendants be restrained from disposing of assets without prior leave of court, and that Judgment be entered for Plaintiff, together with costs.

ALTERNATIVE; The Court Administrator be instructed to promptly schedule the case for Jury Trial.


Chester A. Ogden,
512 Hartshorn Road
Clearfield, Pa. 16830
814-765-4682

August 22, 2006

Date

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

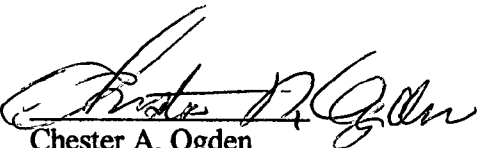
CHESTER A. OGDEN :
Plaintiff :
vs. : No. 05 - 1416 - CD
ROBERT K. & JEANNE P. GRAY :
Defendant :

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 22, 2006, a true and correct copy of Plaintiff's Statement was served on the following by depositing said copy in the United States Mail, first class, postage prepaid and addressed as follows;

Robert K. & Jeanne P. Gray
RD. # 1, Coal Hill Road
Clearfield, Pa. 16830

Date: August 22, 2006


Chester A. Ogden
512 Hartshorn Road
Clearfield, Pa. 16830
(814) 765-4682

FILED

AUG 23 2006

William A. Shaw
Prothonotary

William A. Shaw, Prothonotary
Clearfield County Courthouse
1 North Second Street
Clearfield, Pa. 16830

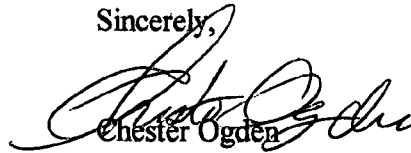
August 24, 2006

RE: Case No. 05-1416-CD
Ogden vs. Gray

Dear Mr. Shaw;

Enclosed herewith is copy of letter submitted to David Meholic, Court
Administrator, dated August 24, 2006, for filing with Record of above referenced case.

Sincerely,



Chester Ogden
512 Hartshorn Road
Clearfield, Pa. 16830
814-765-4682

FILED

0/3:236N
AUG 25 2006

William A. Shaw
Prothonotary/Clerk of Courts

Filed
per
Judge Cherry

(GR)

David Meholick, Court Administrator
Clearfield County Courthouse
1 North Second Street
Clearfield, Pa. 16830

August 24, 2006

RE: Case No. 05-1416-CD
Ogden vs. Gray

Dear Mr. Meholick;

This is prompted by the confusion created yesterday, August 23rd, in Courtroom #2, involving above referenced case.

In compliance with Order dated 23rd day of May, 2006. Hearing on Complaint was continued until the 23rd day of August, 2006 at 9:00 AM, in Courtroom No. 2. Clearfield County Courthouse, Clearfield, Pa.

However on August 23rd, being seated in the courtroom and ready for proceedings, it was at that time that I was supplied a copy of Certificate Of Service, indicating that Mr. Colavecchi had filed Petition for Continuance dated June 2, 2006, and also supplied a copy of Order, 30th day of May, 2006, that the case scheduled for trial on August 23, 2006 is continued and the trial is rescheduled to be held on the 6th day of September, 2006 at 9:00 A.M. at the Clearfield County Courthouse, Courtroom Number 2.

Possessing no knowledge of anyone requesting the case be scheduled for trial, and having prepared Plaintiff's Statement for hearing of complaint on August 23rd, a copy of which was filed with Prothonotary and served on defendant. Plaintiff's Statement requested judgment be entered for Plaintiff, together with costs. And also indicated ALTERNATIVE; The Court Administrator be instructed to promptly schedule the case for Jury Trial; That, to the best of my knowledge, was the first for requesting that the case to be scheduled for trial, and it requested Jury Trial.

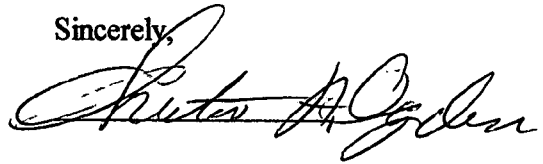
At this point, with the Order stating the "trial" is rescheduled to be held on the 6th day of September, I need to know that trial will be by Jury
Based on the case involving defendant being charged with violating an agreement, by failing to build a road. I feel confident that evidence produced at trial will be sufficient to dispose of the matter in one-half day.

Favoring me with a prompt reply will be appreciated.

David Meholick, Court Adm'r
Case No. 05-1416-CD
August 24, 2006
Page 2

cc. Paul E. Cherry, Judge
Robert & Jeanne Gray, Defendant
William A. Shaw, Prothonotary

Sincerely,

A handwritten signature in cursive script, appearing to read "Chester A. Ogden".

Chester A. Ogden
512 Hartshorn Road
Clearfield, Pa. 16830
814-765-4682

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN

NO. 05-1416-CD

V.

ROBERT K. GRAY and
JEANNE P. GRAY

FILED

0/3:10
AUG 31 2006

William A. Shaw
Prothonotary/Clerk of Courts

Judge
Per [initials]
ICC by
Cert mail
to [initials]
512 Hartshorn Rd
Clearfield PA 16830
+
Atty Colavachi
ICC C/A +
D. Miksd

OPINION

This matter comes before the Court on a Motion for Summary Judgment filed on behalf of the Defendants, Robert K. and Jeanne P. Gray.

Our Supreme Court has set forth the standard to be followed in reviewing appeals from a grant of Summary Judgment as follows:

A reviewing Court may disturb the Order of the Trial Court only where it is established that the Court committed an error of law or abused its discretion. Capek v. Devito, 564 Pa. 267, 767 A.2d 1047, 1048, n. 1 (Pa. 2001).

Summary Judgement is authorized under Pa. R.C.P. 1035.2. The Rule states that where there is no genuine issue of material fact and the moving party is entitled to relief as a matter of law, Summary Judgment may be entered. Where the non moving party bares the burden of proof on an issue, he may not merely rely on his pleadings or answers in order to survive Summary Judgment. "Failure of a non moving party to adduce sufficient evidence on an issue essential to this case and on which it bares the burden of proof... establishes the entitlement of the moving party to judgment as a matter of law." Young v. PennDOT, 560 Pa. 373, 744 A.2d 1276, 1277 (2000). In determining whether to grant Summary Judgment, the Trial Court must review the record in the light most favorable to the non moving party, and all doubts as to the existence of a genuine issue of material fact must be resolved against the moving party. Murphy v. Duquesne University

of the Holy Ghost, 565 Pa. 571, 777 A.2d 418, 429 (2001) (citation omitted).

In the case before this Court, Plaintiff has owned his property since 1953. The Defendants have owned their property since 1949 and entered into the agreement in question before this Court at that time. The Defendants have continued to use the right of way since they bought the property and Plaintiff did not object to nor did he take any legal action against the Defendants until September 14, 2005 when the original Complaint was filed. This period of time is approximately fifty-two (52) years from acquiring said property, which is beyond the six year period as set forth in 42 Pa. C.S.A. §5527.


The Statute of Limitations clearly bars this claim as it is not subject to any other limitations. Plaintiff is now estopped from going any further with the legal action as the Defendants have used their property and said right of way in a continuous manner since 1953 with no legal action being commenced until September 14, 2005.

The Court is satisfied that, based upon the foregoing Summary Judgment is appropriate in this case. This Court is satisfied that there is no genuine issue of material fact nor can any issue of material fact be established in this claim. Therefore, the Court enters the following:

ORDER

AND NOW, this 31st day of August, 2006, consistent with the foregoing Opinion, it is the ORDER of this Court that Defendants' Motion for Summary Judgment shall be and is hereby GRANTED and Plaintiff's Complaint shall be and is hereby DISMISSED.

BY THE COURT,


PAUL E. CHERRY,
JUDGE

2005-1416-CD

FILED

SEP 01 2006
018:30/2006
William A. Shaw
Prothonotary/Clerk of Courts

7002 2030 0000 5014 8224

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OFFICIAL USE

Postage	\$
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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.64

Postmark
CLEARFIELD PA 16830
AUG 31 2006
USPS

05-1416

Sent To: Joseph Calaveachi Esq.
Street, Apt. No.: 221 East Market St PO Box 131
or PO Box No.:
City, State, ZIP+4: Clearfield PA 16830

PS Form 3800, June 2002 See Reverse for Instructions

7002 2030 0000 5014 8217

U.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.64

Postmark
CLEARFIELD PA 16830
AUG 31 2006
USPS

05-1416CD

Sent To: Chester Ogden
Street, Apt. No.: 512 Hartshorn Rd
or PO Box No.:
City, State, ZIP+4: Clearfield PA 16830

PS Form 3800, June 2002 See Reverse for Instructions

FILED

SEP 05 2006

M/8-30-06
William A. Shaw
Prothonotary/Clerk of Courts

05-1416-CD

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Chester Ogden
512 Hartshorn Rd
Clearfield PA 16830

2. Article Number
(Transfer from service label)

111 7002 2030 0004 5014 8217

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Signature] ☐ Agent ☒ Addressee

B. Received by (Printed Name)

Chester Ogden 9-1-06

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Joseph Colavecchi
221 East Market St
PO Box 131
Clearfield PA 16830

2. Article Number
(Transfer from service label)

111 7002 2030 0004 5014 8224

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Signature] ☐ Agent ☒ Addressee

B. Received by (Printed Name)

Joseph Colavecchi

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

No
ORDER!

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN
Plaintiff

vs

ROBERT K. GRAY and
JEANNE P. GRAY
Defendant

No. 05-1416-CD

FILED
9/10/06
SEP 11 2006

William A. Shaw
Prothonotary/Clerk of Courts
icc PHH

MOTION FOR RECONSIDERATION

NOW comes plaintiff, Chester A. Ogden, and requests of the
Honorable Court to reconsider Opinion granting Summary Judgment and
dismissing Plaintiff's Complaint, for reason following stated:

1. On September 14, 2005, Chester A. Ogden petitioned
Government for redress of grievance by filing a complaint with The Court
charging Defendant with violation of Agreement dated August 18, 1949.
with attached copy of Agreement marked Exhibit "A".
2. The matter placed before The Court charged Defendant with
failure to build a road and information in support.
3. Plaintiff's Complaint involves The Court making a determination
if a road exists, as defined in Agreement dated August 18, 1949.
4. Record of the case is absent evidence of Defendant complying
with the agreement.

5. Defendant obstructed vehicle use of plaintiff's right of way without authorization.

6. Defendant further violated Agreement by removing material from adjacent right of way and using the material to landscape land of defendant.

7 Record of the case is absent evidence of defendant having built a road in compliance with Agreement

**8 Plaintiff's Statement, filed August 26, 2006, requests of The Court to issue Order To Build Road Forthwith on defendant; That Defendant be restrained from disposing of assets without prior leave of court, That judgment be entered for Plaintiff, together with costs. and
ALTERNATIVE; The Court Administrator be instructed to promptly schedule the case for Jury Trial.**

ARGUMENT

The Opinion avoids the fact that defendant never appeared in Court to answer to charges made; It doesn't indicate defendant having complied with Agreement dated August 18, 1949; It doesn't indicate defendant having caused injury to plaintiff by removing material from right of way without authorization; It doesn't indicate defendant having obstructed vehicle access to plaintiff's land; and, therefore, The Opinion is contrary to information


filed with the Court.

**The ORDER of Court entered 31st day of August, 2006, whereby
Defendants' Motion for Summary Judgment was GRANTED and Plaintiff's
Complaint was DISMISSED, violates plaintiff's rights under the
Constitution of The United States; Violates rules of Judicial Administration;
and Violates Honesty and Ethics of Judicial Officer**

**WHEREFORE; Plaintiff requests of the Honorable Court to reconsider
OPINION and ORDER, and, for reason above stated, issue Order to Build
Road Forthwith on defendant, that Defendant be restrained from disposing
of assets without prior leave of Court, and that judgment be entered in
favor of Plaintiff together with costs.**

**ALTERNATIVE; The Court Administrator be instructed to schedule the
matter for Jury Trial**

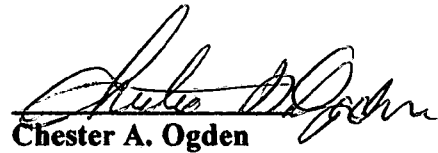
Respectfully submitted



**Chester A. Ogden
512 Hartshorn Road
Clearfield, Pa. 16830
814-765-4682**

VERIFICATION

**,I, Chester A. Ogden, verify that the statements made in the Motion For
Reconsideration are true and correct. I understand that false statements
herein are made subject to the penalties of Crimes Code 18 Pa.C.S. s/s 4904
relating to unsworn falsification to authorities.**


Chester A. Ogden

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION**

CHESTER A. OGDEN,
Plaintiff

vs.

No. 05 - 1416 - CD

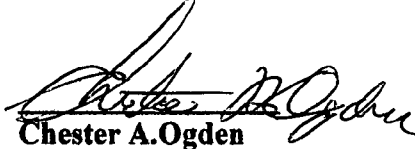
ROBERT K. & JEANNE P. GRAY:
Defendant

CERTIFICATE OF SERVICE

**The undersigned hereby certifies that on September 8, 2006 a true and
correct copy of Request For Recnsideration was served on the following by
depositing said copy in the United States Mail, first class, postage prepaid
and addressed as follows:**

**Robert K. and Jeanne P. Gray
RD.#1, Coal Hill Road
Clearfield, Pa. 16830**

Date: September 8, 2006


**Chester A. Ogden
512 Hartshorn Road
Clearfield, Pa. 16830
814-765-4682**

FILED
SEP 11 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CHESTER A. OGDEN,
Plaintiff

vs.

ROBERT K. GRAY and JEANNE P.
GRAY,
Defendants

CIVIL DIVISION

No. 05 - 1416 - CD

**ANSWER TO MOTION FOR
RECONSIDERATION**

Filed on Behalf of:

Defendants, ROBERT K. GRAY
and JEANNE P. GRAY

Counsel of Record for This
Party:

JOSEPH COLAVECCHI, ESQUIRE
Pa. I.D. #06810

COLAVECCHI & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

LAW OFFICES OF
COLAVECCHI
& COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

FILED 3cc AAJ J.
9/11/06
SEP 18 2006 (S) Colavecchi

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN, :
Plaintiff : No. 05 - 1416 - CD
 :
vs. :
 :
ROBERT K. GRAY and :
JEANNE P. GRAY, :
Defendants: :

ANSWER TO MOTION FOR RECONSIDERATION

AND NOW COMES, Defendants, Robert K. Gray and Jeanne P. Gray, his wife, who, through their attorney Joseph Colavecchi, Esquire, file their response to the Motion for Reconsideration and respectfully aver as follows:

1. The Court issued an Order on August 31, 2006, entering summary judgment against Chester A. Ogden and dismissing the above legal action because it was barred by the Pennsylvania Statute of Limitations, namely 42 Pa. C.S.A. 5527.

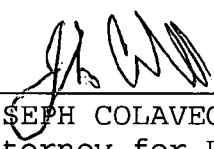
2. The Court further stated that the Defendants have used their property and the right-of-way in a continuous manner since 1953 with no legal action being commenced until September 14, 2005.

3. The Court was satisfied that there was no genuine issue of material fact that needed to be established because of the application of the Pennsylvania Statute of Limitations.

4. This cause of action as averred in the Plaintiff's Complaint, if it exists, arose more than 56 years prior to the institution of the suit.

WHEREFORE, Defendants ask that the Motion for Reconsideration be dismissed.

Respectfully submitted,



JOSEPH COLAVECCHI, ESQUIRE
Attorney for Defendants

This
case was
dismissed -
there is
nothing to
file in this
matter.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL and CRIMINAL DIVISION

(TWO COUNTS)

(Count 1, Civil Division)

CHESTER A. OGDEN,
Plaintiff

vs

ROBERT K. GRAY and
JEANNE P. GRAY,
Defendants

*
*
*
*
*
*

No. 05-1416-CD

(Count 2, Criminal Division)

~~COMMONWEALTH OF PA.~~

~~vs~~

~~CHESTER A. OGDEN~~

~~*~~
~~*~~
~~*~~

~~No. CR 196-06~~

REQUEST FOR PROMPT DISPOSITION OF CASE(S)

- Now comes Chester A. Ogden under lawful rights of citizen and
- request of the Honorable Court that the above captioned case(s)
- be promptly scheduled for disposition, for reason following stated.

COUNT 1, CASE NO. 05-1416-CD
OGDEN vs GRAY

1. Plaintiff's Complaint was filed with the Court September 14, 2005
and charged defendant's with failure to build a road pursuant to
Agreement dated August 18, 1949.

FILED

NOV 02 2006

0/10210/w
William A. Shaw

Prothonotary/Clerk of Courts

1 sent to
P.F.F.


2. Defendant's failure to build a road has denied plaintiff, and others, of vehicle access to plaintiff's land throughout past fifty-three (53) years.

3 Plaintiff's Statement, filed with the Court on August 26, 2006, addressed the matter and requested the Honorable Court to issue Order To Build Road Forthwith on Defendants, that Defendants be restrained from disposing of assets without prior leave of court, and Judgment be entered for Plaintiff, together with costs. ALTERNATIVE; The Court Administrator be instructed to promptly schedule the matter for Trial by Jury.

4. Plaintiff's Motion For Reconsideration, filed with the Court on September 11, 2006, was a request of the Honorable Court to reconsider Opinion granting Summary Judgment and dismissing Plaintiff's Complaint, and indicated that the Order of Court granting summary judgment and dismissing Plaintiff's Complaint violated plaintiff's rights under the Constitution Of The United States (Amendment XIV)

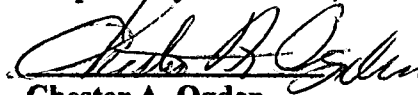
5. Plaintiff has been denied redress of grievance since filing Complaint with the Court on September 14, 2005

COUNT 2. CASE NO. CR-293-06
COMMONWEALTH vs OGDEN

- 
1. Defendant was arrested July 28, 2006 on charge of having a backhoe obstructing Pike Township Route 504, Clearfield County, without supporting evidence.
 2. Defendant was arrested, hand-cuffed, and taken from his residence without evidence of obstructing Pike Township Road 504.
 3. Defendant was not arraigned.
 4. Bail was set without first being determined guilty of crime
 5. Defendant denied due process of law
 6. Defendant subject to punishment without first being duly convicted of crime
 7. Defendant's rights under Constitution Of The United States were violated

WHEREFORE; It is requested of the Honorable Court that the Court Administrator be instructed to promptly schedule the matter, Case No. 05-1416-CD and No. CR-293-06, for trial by jury

Respectfully submitted,



Chester A. Ogden

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL and CRIMINAL DIVISION**

CHESTER A. OGDEN *
vs * **No. 05-1416-CD**
ROBERT K. AND JEANNE P. *
GRAY *

AND -----

COMMONWEALTH *
vs * **No. CR-0876-2006**
CHESTER A. OGDEN *

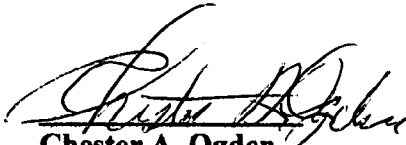
CERTIFICATE OF SERVICE

**The undersigned hereby certifies that on November 1, 2006 a true
and correct copy of Request For Prompt Disposition Of Case(s) was
served on the following by depositing said copy in United States Mail,
first class, postage prepaid, and addressed as follows:**

**Robert K. and Jeanne P. Gray
RD #1, Coal Hill Road
Clearfield, Pa. 16830**

**William A. Shaw Jr., District Attorney
Clearfield County Courthouse
1 North Second Street
Clearfield, Pa. 16830**

Date: November 1, 2006


**Chester A. Ogden
512 Hartshorn Road
Clearfield, Pa. 16830
814-765-4682**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CHESTER A. OGDEN,

Petitioner

vs

ROBERT K. GRAY and JEANNE P. GRAY,

Defendant

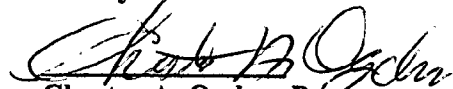
No. 06-1416-CD
05c

FILED

NOV 15 2007
11:10/12
William A. Shaw
Prothonotary/Clerk of Courts
wo c/c

STATEMENT OF INTENTION TO PROCEED

Petitioner, Chester A. Ogden alleges the grievance ready for trial.


Chester A. Ogden, Pro se
512 Hartshorn Road
Clearfield, Pa. 16830

Date; November 12, 2007

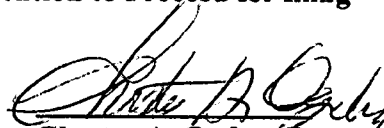
**William A. Shaw, Prothonotary/Clerk of Courts
Clearfield County Courthouse
1 North Second Street
Clearfield, Pa. 16830**

November 13, 2007

**RE: Case No. 05-1416-CD
Ogden vs. Gray**

Dear Mr. Shaw;

**Enclosed herewith please find Statement of Intention to Proceed for filing
with the record of above referenced case.**


**Chester A. Ogden, Pro se
512 Hartshorn Road
Clearfield, Pa. 16830**

cc; Robert K. & Jeanne P. Gray